



Attorney's Docket No.: 10527-118004
DPC
69373A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

161 Applicant : Kevin R. Heath Art Unit : 3738
Serial No. : 09/924,275 Examiner : Hieu Phan
Filed : August 8, 2001
Title : TUBULAR MEDICAL ENDOPROSTHESES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST TO WITHDRAW NOTICE OF ABANDONMENT

Under 37 C.F.R. §§1.8(b) and 1.181, Applicant hereby requests that the Notice of Abandonment mailed January 13, 2004 (copy enclosed) be withdrawn. The application was abandoned under 37 C.F.R. § 1.135 for failure to respond to the Office Action mailed July 2, 2003.

Enclosed are copies of: 1.) the Amendment as mailed on December 30, 2003; 2.) the postcard stamped received by the PTO Mailroom on January 2, 2004; and 3.) the cancelled check enclosed with the Amendment mailed on December 30, 2003.

The Amendment includes a certification that these documents were deposited with the United States Postal Service as first class mail with sufficient postage on December 30, 2003, the certification was signed by the undersigned attorney's secretary, Patricia Smith. Enclosed is a Statement Of Timely Mailing Under 37 C.F.R. § 1.8.

Thus, the Notice of Abandonment was issued in error and Applicants respectfully request that it be withdrawn and the application processed for issuance. Because the Notice of Abandonment was issued as a result of an error by the Patent Office, we believe that no fees are required for our request. If that is not correct, please charge the required fees to our Deposit Account No. 06-1050.

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit

March 2, 2004

Signature

Patricia Smith

Typed or Printed Name of Person Signing Certificate

TECHNOLOGY CENTER R3700

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Applicant : Kevin R. Heath
Serial No. : 09/924,275
Filed : August 8, 2001
Page : 2 of 2

Attorney's Docket No.: 10527-118004

Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,



Sean P. Daley
Reg. No. 40,978

Date: March 2, 2004

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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 Examiner : Hieu Phan

Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

AMENDMENT IN REPLY TO ACTION OF JULY 2, 2003

Please amend the above-identified application as follows:

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I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

12-30-03

Date of Deposit

Patricia Smith

Signature

Patricia Smith

Typed or Printed Name of Person Signing Certificate

Applicant : Kevin R. Heath
Serial No. : 09/924,275
Filed : August 8, 2001
Page : 2 of 6

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Amendments to the Claims:

This listing of claims replaces all prior versions and listings of claims in the application:

Listing of Claims:

1-30. (Cancelled)

31. (Currently Amended) An implantable medical stent containing a cobalt alloy, wherein the implantable medical stent includes at least first and second layers, the first layer being formed of the cobalt alloy and the second layer being formed of a material that is more dense than the cobalt alloy.

32-38. (Cancelled)

39. (Currently Amended) The implantable medical stent of claim 38 31, wherein the second layer is disposed inwardly of the first layer.

40. (Previously Presented) The implantable medical stent of claim 39, wherein the second material comprises a metal selected from the group consisting of tungsten, tantalum, rhenium, iridium, silver, gold, bismuth, platinum and alloys thereof.

41. (Previously Presented) The implantable medical stent of claim 39, wherein the first metal has a density of 9.9 g/cc or greater.

42. (Previously Presented) The implantable medical stent of claim 39, wherein the first metal has a density of about 16 g/cc or greater.

43. (Previously Presented) The implantable medical stent of claim 39, wherein the first and second layers are coaxial.

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44. (Currently Amended) The implantable medical stent of claim 38 31, wherein the second material comprises a metal selected from the group consisting of tungsten, tantalum, rhenium, iridium, silver, gold, bismuth, platinum and alloys thereof.

45. (New) The implantable medical stent of claim 38 31, wherein the first metal has a density of 9.9 g/cc or greater.

46. (New) The implantable medical stent of claim 38 31, wherein the first metal has a density of about 16 g/cc or greater.

47. (New) The implantable medical stent of claim 38 31, wherein the first and second layers are coaxial.

48-76. (Cancelled)

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REMARKS

In response to the Office Action mailed July 2, 2003, Applicant amended claims 31, 39 and 44-48, and cancelled claims 32-38 and 48-76. Claims 31 and 39-47 are presented for examination.

The Examiner stated that previously pending claims 38-47 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. Applicants have amended the claims accordingly. Further, without conceding that the rejections made in the Office Action mailed July 2, 2003, were appropriate, Applicant cancelled all rejected claims thereby obviating the rejections.

In view of the foregoing, Applicant believes the application is in condition for allowance, which action is requested.

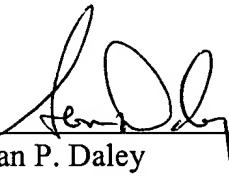
Applicant mailed an Information Disclosure Statement ("I.D.S.") in this application on May 30, 2003. According to the P.A.I.R. page of the U.S.P.T.O., the I.D.S. was received on June 2, 2003 (Entry Number 21). Accordingly, Applicant requests consideration of the I.D.S. at no fee because it was received by the U.S.P.T.O. prior to July 2, 2003 (the date of mailing of the first action on the merits). (See 37 C.F.R. §1.97(b)(1)(3)).

Enclosed is Petition for a Three Month Extension of Time and a check to cover the associated fee. Please apply any other charges or credits to deposit account 06-1050.

Applicant : Kevin R. Heath
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Respectfully submitted,



Sean P. Daley
Reg. No. 40,978

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

STATEMENT OF TIMELY MAILING UNDER 37 CFR §1.8

I, Patricia Smith, declare as follows:

I am an employee of the law firm of FISH & RICHARDSON P.C.

On December 30, 2003, I signed the certificate of mailing stamped directly on the correspondence entitled Amendment in Reply to Action of June 30, 2003, which indicated that the correspondence and accompanying postcard and check were being deposited with the United States Postal Service on December 30, 2003. I made photocopies for the file, sealed the originals in a special envelope preprinted with the address of the Assistant Commissioner of Patents, and left the envelope in one of the designated "pick-up stations."

Knowing the procedures for outgoing mail and my own experience with them, I had reasonable basis to expect that the correspondence would be deposited with the United States Postal Service on the date indicated.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States

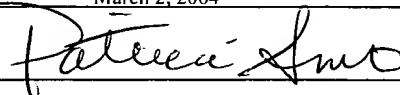
CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

March 2, 2004

Date of Deposit

Signature



Patricia Smith

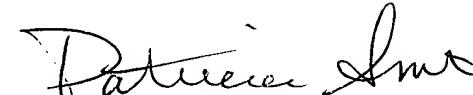
Typed or Printed Name of Person Signing Certificate

Applicant : Alexander Kaplan et al.
Serial No. : 09/558,645
Filed : April 26, 2000
Page : 2 of 2

Attorney's Docket No.: 08935-170001 / M-4860

Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Respectfully submitted,



Patricia Smith

Date: March 2, 2004

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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Attorney's Docket No. 10527-118004	Express Mail Label No.	Mailing Date December 30, 2003	For PTO Use Only <i>Do Not Mark in This Area</i>
Application No. 09/924,275	Filing Date August 8, 2001	Attorney/Secretary Init JJG/SXD/pxs	
Title of the Invention TUBULAR MEDICAL ENDOPROSTHESES			
Applicant Kevin R. Heath			
Enclosures ·Amendment/Response (6 pages) ·Check in the amount of \$1130.00 ·Information Disclosure Statement (1 pages) ·Form PTO-1449 (1 pages) ·Documents listed on the Form PTO-1449 (2 documents) ·Petition for Extension of Time (1 months)			



Paid Date = 01/12/2004
Account Number = 80071123
Check Number = 175851
Check Amount = \$1,130.00

FISH & RICHARDSON PC
225 Franklin Street
Boston, Massachusetts
02110-2801

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PAY Commissioner of Patents and Trademarks DOLLARS

TO THE ORDER OF
COMMISSIONER OF PATENTS AND TRADEMARKS

DATE 1/12/04 AMOUNT \$1,130.

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